



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER

FILING DATE

FIRST NAMED APPLICANT

RECEIVED DATE

07/832,335

02/07/92

ABECASSIS

FILED 02/07/92

26M2/0122

TRUDEN EXAMINER

MAX ABECASSIS
19020 NE 20 AVENUE
MIAMI, FL 33179

ART 1.116(b) PAPER NO. 100

2016

27

DATE FILED

01/22/96

Below is a communication from the EXAMINER in charge of this application

COMMISSIONER OF PATENTS AND TRADEMARKS

ADVISORY ACTION

☒ THE PERIOD FOR RESPONSE:

- a) ☐ is extended to run _____ or continues to run _____ from the date of the final rejection
- b) ☐ expires three months from the date of the final rejection or as of the mailing date of this Advisory Action, whichever is later. In no event however, will the statutory period for the response expire later than six months from the date of the final rejection.

Any extension of time must be obtained by filing a petition under 37 CFR 1.136(a), the proposed response and the appropriate fee. The date on which the response, the petition, and the fee have been filed is the date of the response and also the date for the purposes of determining the period of extension and the corresponding amount of the fee. Any extension fee pursuant to 37 CFR 1.17 will be calculated from the date of the originally set shortened statutory period for response or as set forth in b) above.

☒ Appellant's Brief is due in accordance with 37 CFR 1.192(a).

☒ Applicant's response to the final rejection, filed 12/11/95 has been considered with the following effect, but it is not deemed to place the application in condition for allowance:

1. ☐ The proposed amendments to the claim and/or specification will not be entered and the final rejection stands because:
- a. ☐ There is no convincing showing under 37 CFR 1.116(b) why the proposed amendment is necessary and was not earlier presented.
- b. ☐ They raise new issues that would require further consideration and/or search. (See Note).
- c. ☐ They raise the issue of new matter. (See Note).
- d. ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal.
- e. ☐ They present additional claims without cancelling a corresponding number of finally rejected claims.

NOTE: _____

2. ☐ Newly proposed or amended claims _____ would be allowed if submitted in a separately filed amendment cancelling the non-allowable claims.
3. ☐ Upon the filing an appeal, the proposed amendment ☐ will be entered ☐ will not be entered and the status of the claims will be as follows:

Claims allowed: _____

Claims objected to: _____

Claims rejected: _____

However;

☐ Applicant's response has overcome the following rejection(s): _____

4. ☒ The affidavit, exhibit or request for reconsideration has been considered but does not overcome the rejection because _____

(See attachment)

5. ☐ The affidavit or exhibit will not be considered because applicant has not shown good and sufficient reasons why it was not earlier presented.

☐ The proposed drawing correction ☐ has ☐ has not been approved by the examiner.

☐ Other

Art Unit: 2615

1. The request for reconsideration, filed December 11, 1995, has been considered but does not overcome the rejection because they are not deemed to be persuasive.

With respect to the Applicant's arguments on pages 2-13 of the remarks in the request for reconsideration, the Examiner's responses are as follows:

- a) In re pages 3-6, the Applicant argues that "Olivio's screening device does not anticipate 'producing a segment map that provides for a variable arrangement of said plurality of segments' as is recited in each of the present claims", the Examiner disagrees.

Applicant's attention is directed to column 3, lines 29-44, wherein "the material content signal can include complex information relating to the program content of particular scenes of the program material, thus enabling the scenes (or even individual frames) of a movie to be rated on a scene-by-scene (or frame-by-frame) basis ... detection of the material content signal will lead during playback to the substitution of highly rated scenes (e.g., X) with lower rated scenes (e.g., R or PG-13)".

- b) In re page 6, the Applicant argues that "under Olivio's teaching, a viewer who has chosen to exclude

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graphic violence would, on nearly every instance, be presented with a stationary on-screen display. This is a significant shortcoming of Olivio's material content signal which is avoided by the segment map of the present invention", the Examiner disagrees. First of all, "graphic violence" is not claimed. Secondly, Applicant's attention is again directed to column 3, lines 29-44, wherein the "substitution of highly rated scenes to a lower rated scenes" is achieved.

Therefore, the claimed limitation is being met.

- C) In re pages 7-8, the Applicant argues that "further, it should be appreciated that Olivio defines and operates in a broadcast or linear play environment in which a program screening device prevents a player from replaying program material. The present invention operates in a pointcast (video-on-demand) or non-linear play environment". Again, the limitation "pointcast (video-on-demand) or non-linear play environment" is not claimed. The Applicant is reminded that the specification is not the measure of invention.

Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968).

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- d) In re page 8, the Applicant further argues that "Olivio fails to anticipate, teach, or suggest generating segment definitions, by, for example, pre-reading the material content signal from the tape with respect to a timecode, to produce a segment map of the motion picture that would enable the VCR player to fast forward past unsuitable segments". Again, this limitation is not claimed. Thus, the Applicant is again reminded that the specification is not the measure of invention. Therefore, limitations contained therein can not be read into the claims for the purpose of avoiding the prior art. In re Sporck, 55 CCPA 743, 386 F.2d 924, 155 USPQ 687 (1968).

Conclusion

2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoi Truong whose telephone number is (703) 305-4727. The examiner can normally be reached on Monday-Thursday from 8:30 AM-6:00 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tommy Chin, can be reached on (703) 305-4715. The fax phone number for this Group is (703) 305-9508.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 305-4700.

**KHOI TROUNG
PATENT EXAMINER
GROUP 2600**


**TOMMY P. CHIN
SUPERVISORY PATENT EXAMINER
GROUP 2600**